

APPROVED: Meeting No. 23-81

ATTEST: *William E. Hanna, Jr.*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 21-81

June 1, 1981

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street Rockville, Maryland, on Monday, June 1, 1981, at 8:00 p.m.

PRESENT

Mayor William E. Hanna, Jr.

Councilwoman Phyllis Fordham

Councilman John Freeland

Councilman John Tyner

ABSENT

Councilman Steve Abrams

The Mayor in the Chair.

In Attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Roger Titus; Public Information Officer Sue M. Patterson; Director of Public Works Robert Goodin; Director of Finance John Lawton; Chief of Police Jared Stout; Director of Community Development Douglas Horne.

Re: City Manager's Report

Mr. Blick reported the following:

1. The mural painting is underway at the Metropolitan Savings Bank on North Washington Street.

2. The removal of the deteriorated bridge piers and forming of new piers began on the Edmonston Drive bridge. In addition, the extension of the old bridge abutment was formed and steel set. Track laying for Metro is being done from Twinbrook Station to the Edmonston Drive Bridge.

3. Cora Alter, president of the Friends of the Performing Arts Society addressed the Council about the subscription series entitled "Six Enchanted Evenings and Afternoon Delights" at the T. Scott Fitzgerald Theatre at the Rockville Civic Center Park. The features will be the Baltimore Symphony, the Annapolis Brass Quintet, the Boys Choir of Harlem, the Folger Consort, the McCarter Theatre Company, and the Joffrey II Ballet. The Mayor and Council thanked Mrs. Alter for coming this evening.

Re: Appointments

Mayor Hanna, with the confirmation of the Council, made the following appointments:

Cultural Arts Commission: Nanton Romney - reappointed to a two-year term.

Ann Reiss - reappointed to a two-year term.

Traffic and Transportation: Robert Weirich - appointed Chairman for one year term (effective July 1)

Re: Award of Contract: Bid No. 41-81
Horners Lane Storm Drainage

Bids were opened on Thursday, May 14, 1981, at 3:00 p.m. in the City Hall Council Chambers for the construction of a storm drainage system in North Horners Lane between the Westmore Housing Authority and Dover Road. The project is to alleviate flooding and erosion on this section of North Horners Lane, as well as to adjacent private properties.

The project authorization is in the amount of \$92,000. The low bid is \$73,687.00. Staff had previously spent approximately \$26,000 for engineering and rights-of-way acquisition and anticipate additional inspection and construction contingency expenditures of approximately \$3,500. It will, therefore, be necessary to increase the appropriation to \$103,000, and adequate funds are available in the year IV contingency fund to supplement the original appropriation. The increased costs are primarily related to two factors: (1) The land acquisition exceeded estimated costs and (2) The original estimate was prepared in 1977 and inflation has increased construction costs substantially since that time.

There were ten bids as follows:

Nazario Construction Company, Beltsville, Maryland	\$73,687.00
Concrete General Company, Gaithersburg, Maryland	79,180.00
Pilot Construction Company, Burtonsville, Maryland	82,689.50
Pleasant Excavating Company, Clarksburg, Maryland	83,507.00
Ennis & Son, Camp Springs, Maryland	93,233.00
Deneau Construction Company, Gaithersburg, Maryland	94,103.05
Rapp Contracting Company, Beltsville, Maryland	99,222.00
Francis O. Day Company, Rockville, Maryland	105,017.00
San Dot, Inc., Union Bridge, Maryland	112,016.00
Kenster Tri-State, Crofton, Maryland	115,034.00
Engineer's Estimate	\$75,000.00

The low bidder, Nazario Construction Company, is experienced and well qualified to perform the work.

Staff recommends increasing the appropriation to \$103,000 and awarding the contract to the low bidder, Nazario Construction Company, Inc., in the amount of \$73,687.00.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, Council agreed to increase the appropriation to \$103,000.00 and award the contract to the low bidder, Nazario Construction Co., in the amount of \$73,687.00.

Re: Approval of Storm Water
Management Waivers

(a) Richfield Court, Lot D, Block E

The commercial area upstream from this site has provided on-site SWM. The enclosed drainage system through this area can accommodate the storm runoff to the receiving stream.

It is recommended that the City grant a waiver for the required on-site SWM for this development and accept a contribution of \$16,800 (2.8 acres @ \$6,000) toward the City's public off-site SWM program, subject to a conformable waiver by the Montgomery Soil Conservation District.

On motion of Councilman Freeland, duly seconded and unanimously passed, the waiver request for Richfield Court, Lot D, Block E was granted.

(b) City Center, Hungerford Drive. Lot 27, Block C

Because of the developer's engineering error, staff considered a waiver at this location. However, after reviewing their site drainage area map, staff finds that the site is some 200 feet south of pumping runoff. Such a system would not only require easements and be very expensive to install and maintain, but would not be dependable.

Since their runoff cannot be easily conveyed to and managed by a public off-site SWM facility, staff recommends against the subject request and suggests the developer provide on-site SWM.

On motion of Councilman Freeland, duly seconded and unanimously passed, the Council denied the request.

(c) Original Town, Lot 81, Block 18

Because of the topography of this area, on-site SWM is not recommended. Recently, Lot 2 Block 18 was granted a waiver and a contribution of \$6,000 was made to the City's off-site SWM program.

Since the impervious area of Lot 81 exceeds 50 percent of the net lot area, SWM should be provided in the form of a contribution to the off-site program.

It is recommended that the on-site SWM requirement be waived and that the City accept a contribution of \$3,600 (0.4 gr. ac. @ \$9,000) toward its off-site SWM program subject to a conformable waiver by the Montgomery Soil Conservation District.

On motion of Councilman Tyner, duly seconded and unanimously passed, the request was granted.

Re: Introduction of Ordinance:
To Grant Street Closing
Application, SCA-34-81

On motion of Councilwoman Fordham, there was introduced upon the table an ordinance granting Street Closing Application, SCA-34-81, said ordinance to lay over one week before final action is taken.

Re: Adoption of Resolution:
To Grant Exploratory Appli-
cation, PRU-16-81

Resolution No. 13-81

On motion of Councilman Freeland, duly seconded and unanimously passed, Resolution No. 13-81, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, granting exploratory application, PRU-16-81, was adopted by the Mayor and Council.

Re: Approval of design of kiosk
at Woodmont Shell, Route 28
and Hurley Drive

The subject Shell station is located on land which was zoned C-2, General Commercial under "conditional zoning." One of the conditions gives the Mayor and Council "...the power and authority to approve or disapprove the design of buildings, construction, landscaping or other improvements, alterations and changes made or to be made on the subject land." Shell now plans to reconstruct one of the service islands and include a self-service kiosk thereon. Therefore, the plans must be considered by the Mayor and Council.

The six foot by twelve foot kiosk would be constructed of red brick to match the "colonial" style of this service station. The staff's Urban Designer has reviewed the plans and finds the kiosk compatible with the existing facility.

If approval is granted, the previously approved use permit for this establishment will be amended to include the planned construction.

Mr. Larry Owens briefed the Council on the planned construction.

On motion of Councilman Tyner, duly seconded and unanimously passed, approval was granted.

Re: Approval of policy changes,
including establishment of
an income ceiling for
Community Development Block
Grant loans.

At the present time, the CDBG Rehabilitation Program allows households with earnings in excess of \$22,000 per year to be eligible for rehabilitation loans at an interest rate of 8%. The City does not make these loans directly, but rather, writes down the amount of principal that has to be borrowed from a conventional lending institution so that the monthly payment is equal to that which would have been paid under an interest rate of 8%.

It has been two years since the most recent modifications to program policies were adopted by the Mayor and Council. In order to make the program consistent with present interest rates and operating costs and to clearly define the parameters of the program, staff proposes these changes:

1. An income ceiling of \$34,000 to be established for the program. This amount is \$2,000 less than the present City median income. The policy of restricting loans to the correction of critical code deficiencies and energy conservation activities for households with incomes exceeding \$22,001 should be retained.
2. Because of past difficulties in interpreting adjusted gross income, program eligibility should be based upon the family's unadjusted income. Program participation should be confined to owner/occupants only.
3. Increased interest rates at the bank will increase the cost of operating the program because of the amount of money necessary to write down the loan rate. The interest rates for the program should, therefore, be adjusted in a manner that will be equitable and will permit the program to aid those families which require assistance. The following indicates the proposed family income limits and interest rates for rehabilitation loans:

<u>Family Income</u>	<u>Interest Rate</u>
\$ 7,501 - \$12,500	3%
12,501 - 17,500	6%
17,501 - 22,000	9%
22,001 - 34,000	12%

4. The above income limitations should also apply to property owners in the historic districts. At the present time, historic district loans are based only on the age of the structure.

The Council discussed the changes. Councilman Tyner was prepared to move approval of the staff's recommendation, Councilwoman Fordham suggested that the income level be changed to \$36,000. Mr. Radauskas explained the problem with adjusted gross income being the reason to suggest that the staff now use gross income and just subtract \$1,000 for each dependent. Councilwoman Fordham asked Mr. Radauskas to inquire from the banks as to more favorable interest rates since it might be possible to get less than 18 percent. She did not want to feel as though the program was in any way subsidizing the banks.

On motion of Councilman Tyner, duly seconded and unanimously passed, the Mayor and Council agreed to Councilwoman Fordham's suggestion of substituting \$36,000 for the \$34,000 as an income ceiling. Councilman Freeland asked that the staff continue investigating a revolving fund which he would wholeheartedly support, but he would wait to see the origin of the seed money to start such a program.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. John Brewer, President West End Civic Association. Mr. Brewer spoke to the Council concerning text amendment T-27-79 which is on tonight's agenda to consider withdrawal. He spoke about the concerns expressed by the West End Civic Association at a recent Planning Commission public forum. He said the amendment was filed to assist the West End; however, the original point was missed. The major concern of the West End was the increase of institutional uses and non-owner occupied residences. That type of an amendment became confused with all home occupations. He asked that the Mayor and Council consider letting the staff review the issue for uses mentioned without including home occupations. Mayor Hanna said it became an issue because of the West End and was broadened to include other areas, but also to give the West End an opportunity to present their case.

2. An unidentified citizen told the Council that his next door neighbor is piling skids in his yard up to six feet in the air and piles continue to grow at 1015 Crawford Drive. He asked the Mayor and Council put a stop to it. Mr. Radauskas explained that his inspector has looked into it and he will talk to the inspector, but it could be possible that what the person is doing is within the law. The City Manager agreed that the staff would talk to the person, also.

The Mayor explained that although at times the City has no legal right, it is willing to use its good offices to ask neighborhood cooperation.

3. Robert Braunberg, 419 West Montgomery Avenue. Mr. Braunberg said he has been a West End neighbor for many years and the major concerns there are traffic and institutional intrusions. Unregulated use by religious organizations can also be a problem. A clergyman's residence is ideal but other uses should be special exceptions. He asked that these concerns of the West End be addressed through the text amendment the Council is considering for withdrawal this evening.

4. Dr. Mishra. Dr. Mishra told the Council that he owns a rental property at 919 Lewis Avenue and has been given citations by the Licenses and Inspections Department to correct minor deficiencies. He said they are extremely minor and too small to pay a large sum of money for a house call since no accurate measurement of deficiency exists within the law. He asked that the Council consider waiving them. Mayor Hanna explained that it is impossible to define each violation so the inspector's judgment is left to be reasonable. Mr. Radauskas spoke of the accuracy of the notice of violations and the many extensions that had been given to Dr. Mishra. It was finally agreed by Dr. Mishra that he would be given until July 31 to correct the deficiencies. If they are not done by that date, however, he agreed that the current municipal infraction fine of \$150 would be doubled to \$350, and he would pay the steeper penalty for non-compliance.

5. J. B. Carroll. Mr. Carroll complained to the Council about the restrictive parking in the City Hall parking lot and why spaces should be reserved when there is small attendance at Council meetings and library people could be using the lot. Mayor Hanna explained that the Mayor and Council never know how many citizens will appear at the meeting, but the property is reserved for those citizens who wish to appear on Monday evenings. All other nights are available to the library.

There being no other citizen wishing to be heard, the Mayor closed the Citizen's Forum portion of the meeting.

Re: Withdrawal of Text Amendment
T-27-79.

Councilwoman Fordham said she does not wish to drop this text amendment or modify it. She would like it to go back to the Planning Commission.

Councilman Freeland said he agreed and would like to see all uses, other than residences, to be special exceptions. Mayor Hanna disagreed and said he has difficulty in changing the rules now, making anything more restrictive than it was before and does not feel he wishes to do so. It would seem that whoever gets to a property first, draws a line and allows no one else in. If this were so he would not have been allowed in Rockville. He said this amendment does not tell doctors, lawyers or planners that they cannot operate out of their homes, why does it tell churches, so he is not in favor of the motion. Councilwoman Fordham said the Mayor and Council should have an opportunity to look at this once more. Councilman Tyner agreed that the intent of the amendment may be too broad, but he felt that the public forum put emphasis on enforcement rather than permitted uses. He would like to see it come back more specific and clearly enunciated. He does not want to see the matter deadlocked, therefore, he will vote for it.

On motion of Councilwoman Fordham, duly seconded and passed, Mayor Hanna only voting nay, text amendment T-27-79, was referred back to the Planning Commission for further action, including working with the City Attorney to put the amendment in proper form for public hearing by the Mayor and Council.

Re: Decision and Instructions
to staff re Annexation Petition,
X-82-81.

On motion of Councilman Tyner, duly seconded and unanimously passed, staff was authorized to prepare the necessary resolution and ordinance to grant the annexation and place the property in the R-75 zone.

Re: Decision and Instructions to
to staff re: Annexation
Petition X-83-81

On motion of Councilman Tyner, duly seconded and unanimously passed, staff was authorized to prepare the necessary resolution and ordinance to grant the annexation and place the property in the R-150 zone.

Re: Decision and Instructions to
staff re: Exploratory Appli-
cation, PRU-17-81, Berger/Berman
Builders, Inc., Ewing Property

On motion of Councilman Tyner, duly seconded and unanimously passed, staff was authorized to prepare the necessary resolution to approve the exploratory application with the conditions as set forth by the Planning Commission.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. H.L. and J.E. Carter re Broome School closing
2. Americana Center - thank you for park
3. New Mark Homeowners re City Budget
4. Dick Haight, re propane conversion
5. G. Milne, re Lincoln Park incident
6. Letter re PRU-5F-80, CEBCO/New Mark

Councilwoman Fordham said that it was unusual to have so many complementary letters.

Re: Information Items

The Mayor and Council noted the following item of information:

1. News Release on Montgomery County operating budget.
2. Memo from City Attorney re King suit.
3. Response to citizens complaint.
4. Memo from MML re Constitutional Amendments.
5. Letter granting S-80-81, 1 Lawrence Court.
6. Letter to County Executive re CATV.
7. Copy of letter responding to citizen's complaint.

Re: Approval of Minutes

On motion of Councilman Freeland, duly seconded and unanimously passed, the Minutes of Meeting No. 13-81 were approved as written.

On motion of Councilman Freeland, duly seconded and unanimously passed, the Minutes of Meeting No. 14-81, were approved as amended.

Re: Executive Session

On motion of Councilman Tyner, duly seconded and unanimously passed, the meeting was closed for executive session to discuss litigation and property disposition.

Re: Adjournment

There being no further business to come before the Council in executive session, the meeting was adjourned at 10:10 to convene again in general session on Monday, June 8, 1981, or at the call of the Mayor.